

HOUSE BILL NO. 231

INTRODUCED BY WAITSCHIES

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE UNIFORM PENALTY AND INTEREST ASSESSMENTS FOR VIOLATION OF TAX PROVISIONS; PROVIDING THAT A PENALTY MAY NOT EXCEED 9 PERCENT OF THE AMOUNT OF THE TAX DUE; PROVIDING THAT INTEREST ON TAXES NOT PAID WHEN DUE MUST BE ASSESSED AT THE RATE OF 9 PERCENT A YEAR; AMENDING SECTIONS 15-1-216 AND 15-30-241, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-216, MCA, is amended to read:

"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability -- exceptions. (1) (a) A person who fails to file a required tax return or other report with the department by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

(b) A person who purposely fails to file a required return, statement, or other report must be assessed an additional late filing penalty of \$200 or the amount of the tax due, whichever is less.

(c) A person who fails to pay a tax when due must be assessed a late payment penalty of ~~4.5%~~ 0.75% a month or fraction of a month on the unpaid tax. The penalty may not exceed ~~48%~~ 9% of the tax due.

(d) A person who purposely fails to pay a tax when due must be assessed an additional penalty equal to ~~25%~~ 9% of the tax due or \$200, whichever is less, plus interest as provided in subsection (2).

(2) Interest on taxes not paid when due must be assessed at the rate of ~~42%~~ 9% a year, accrued at ~~4%~~ 0.75% a month or fraction of a month, on the unpaid tax. Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid.

(3) (a) Except as provided in subsection (3)(b), this section applies to taxes, fees, and other assessments imposed under Titles 15 and 16.

(b) This section does not apply to:

(i) property taxes;

(ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15,

1 chapter 70; or

2 (iii) taxes, fees, and other assessments subject to other penalty or interest charges as provided by law."

3

4 **Section 2.** Section 15-30-241, MCA, is amended to read:

5 **"15-30-241. Estimated tax -- payment -- exceptions -- interest.** (1) (a) Each individual subject to tax
6 under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through
7 employer withholding, as provided in 15-30-202, through payment of estimated tax in four installments, as
8 provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax
9 payments, at least:

10 (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or

11 (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding
12 tax year was a period of 12 months and if the individual filed a return for the tax year.

13 (b) Payment of estimated taxes under this section is not required if:

14 (i) the combined tax liability of employer withholding and estimated tax for the current year is less than
15 \$500 after reductions for credits and withholding;

16 (ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12
17 months, and if the individual was a citizen or resident of the United States throughout that tax year;

18 (iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that
19 the department determines to constitute good cause; or

20 (iv) the individual retired in the tax year after having attained the age of 62 or if the individual became
21 disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year
22 following the tax year in which the individual retired or became disabled.

23 (2) Estimated taxes must be paid in four installments according to one of the following schedules:

24 (a) For each taxpayer whose tax year begins on January 1, estimated tax payments are due on the
25 following dates:

26 Installment	Date
27 First	April 15
28 Second	June 15
29 Third	September 15
30 Fourth	January 15 of the following tax year

1 (b) For each taxpayer whose tax year begins on a date other than January 1, estimated tax payments
 2 are due on the following dates:

3 Installment	Date
4 First	15th day of the 4th month following the beginning of the tax year
5 Second	15th day of the 6th month following the beginning of the tax year
6 Third	15th day of the 9th month following the beginning of the tax year
7 Fourth	15th day of the month following the close of the tax year

8 (3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual
 9 payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding
 10 installment must be proportionally changed so that the balance of the required annual payment is paid in equal
 11 installments over the remaining period of time.

12 (b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent
 13 installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes,
 14 the taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is
 15 required. For estimated taxes required to be paid beginning with the second installment provided for in
 16 subsection (2)(a) or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth
 17 installments, respectively. For estimated taxes required to be paid beginning with the third installment provided
 18 for in subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth
 19 installment.

20 (4) (a) If for any required installment the taxpayer determines that the installment payment is less than
 21 the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income
 22 installment.

23 (b) For any required installment, the annualized income installment is the applicable percentage
 24 described in subsection (4)(c) applied to the tax computed on the basis of annualized taxable income in the tax
 25 year for the months ending before the due date for the installment less the total amount of any prior required
 26 installments for the tax year.

27 (c) For the purposes of this subsection (4), the applicable percentage is determined according to the
 28 following schedule:

29 Required Installment	Applicable Percentage
30 First	22.5%

1	Second	45%
2	Third	67.5%
3	Fourth	90%

4 (d) A reduction in a required installment resulting from the application of an annualized income
 5 installment must be recaptured by increasing the amount of the next required installment, determined under
 6 subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount
 7 of the reduction until the amount has been recaptured.

8 (5) (a) If an estimated tax, an employer withholding tax, or a combination of estimated tax and employer
 9 withholding tax is underpaid, there must be added to the amount due under this chapter interest equal to ~~12%~~
 10 9% a year on the amount of the underpayment. The interest is computed on the amount of the underpayment,
 11 as determined in subsection (5)(b), for the period from the time the payment was due to the date payment was
 12 made or to the 15th day of the 4th month of the year following the tax year in which the payment was to be
 13 made, whichever is earlier.

14 (b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the
 15 underpayment is the required installment amount less the installment amount paid, if any, on or before the due
 16 date for the installment.

17 (c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated
 18 payment must be credited against unpaid required installments in the order in which those installments are
 19 required to be paid.

20 (d) For each married taxpayer filing separately on the same form, the interest provided for in subsection
 21 (5)(a) must be computed on the combined tax liability after reductions for credits and withholding, as shown on
 22 the taxpayer's return.

23 (e) Interest may not be charged with respect to any underpayment of the fourth installment of estimated
 24 taxes if:

- 25 (i) the taxpayer pays in full the amount computed on the return as payable; and
- 26 (ii) the taxpayer files a return on or before the last day of the month following the close of the tax year
 27 referred to in subsection (2)(a) or (2)(b).

28 (6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3%
 29 of the taxpayer's gross income, as defined in 15-30-101, from farming or ranching operations, or both.

30 (7) The department shall promulgate rules governing reasonable extensions of time for paying the

1 estimated tax. An extension may not be for more than 6 months."

2

3 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JANUARY 1, 2005.

4

5 NEW SECTION. Section 4. Applicability. [This act] applies to ~~taxes due on or after January 1, 2004.~~

6 PENALTIES AND INTEREST ASSESSED FOR TAX PERIODS BEGINNING AFTER DECEMBER 31, 2004.

7

- END -